

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0281P

Use Tax

Calendar Years 1994, 1995, 1996

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on December 15, 1997.

Taxpayer failed to self-assess and remit use tax. Taxpayer is an Indiana Corporation that was audited previously on November 16, 1992.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty because it cooperated with the auditor during the audit and the majority of the amount due was a result of tax errors. Taxpayer further states that the products that were delivered or shipped to Indiana were taxed at the rate of the state where the shipping originated and since the time of the audit and in the future, they have and will make every attempt to pay the correct sales tax.

Taxpayer's audit report revealed that no use tax accrual system was in place. The ST-103's clearly have an area in which to report purchases where no sales tax was collected. The taxpayer failed to self

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assess as required by statute. In addition, the taxpayer had a prior audit dated November 16, 1992 and was aware that use tax must be remitted.

The taxpayer was negligent in failing to remit the use tax due.

FINDING

Taxpayer's protest is denied.